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**DECLARATION**

**FOR**

**WILDBERRY CONDOMINIUMS**

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Exhibits to Declaration

- Exhibit 1 - Table of Allocated Interests
- Exhibit 2 - Development Plan
- Exhibit 3 - Table of Unit Areas
- Exhibit 4 - Recorded Easements and Licenses



**DECLARATION**  
**FOR**  
**WILDBERRY CONDOMINIUMS**

Preamble

DISCOVERY CONSTRUCTION, INC., owns property in Anchorage, Alaska, described as:

Tract "M", STRAWBERRY MEADOWS SUBDIVISION,  
according to Plat No. 86-62, records of the Anchorage  
Recording District, Third Judicial District, State of Alaska.

Discovery Construction, Inc., referred to herein as "Declarant", hereby submits the above-described property, to the provisions of AS 34.08, the Uniform Common Interest Ownership Act, for the purpose of creating the WILDBERRY CONDOMINIUMS. Discovery Construction, Inc., declares that the Units created by this Declaration and shown on the unit survey map filed under Plat No. 2002-120 shall be held and conveyed subject to the following terms, covenants, conditions and restrictions. Wildberry Condominiums is a site condominium project within the Units of which houses may be built and, therefore, no floor plans for condominium units are being filed with the unit survey map.

ARTICLE I- Definitions

In the Documents, the following words and phrases shall have the following meanings:

Section 1.1 - Act. The Uniform Common Interest Ownership Act, AS 34.08, as it may be amended from time to time.

Section 1.2 - Allocated Interests. The undivided interest in the Common Elements, the Common Expense liability, and votes in the Association, allocated to Units in the Common Interest Community. The Allocated Interests are described in Article IX of this Declaration and shown on Exhibit 1.





Section 1.3 - Association. WILDBERRY CONDOMINIUM ASSOCIATION, a non-profit corporation organized under Chapter 10.20 of the statutes of the State of Alaska. It is the Association of Unit Owners pursuant to Section 34.08.310 of the Act.

Section 1.4 - Bylaws. The Bylaws of the Association, as they may be amended from time to time. Neither such Bylaws nor any amendments to such Bylaws need be recorded in the property records.

Section 1.5 - Common Elements. Each portion of the Common Interest Community other than a Unit.

Section 1.6 - Common Expenses. The expenses or financial liabilities for the operation of the Common Interest Community. These include:

- (a) Expenses of administration, maintenance, repair or replacement of the Common Elements;
- (b) Expenses declared to be Common Expenses by the Documents or by the Act;
- (c) Expenses agreed upon as Common Expenses by the Association; and
- (d) Such reasonable reserves as may be established by the Association, whether held in trust or by the Association, for repair, replacement or addition to the Common Elements or any other real or personal property acquired or held by the Association.

Section 1.7 - Common Interest Community. The real property subject to the Declaration for Wildberry Condominiums.

Section 1.8 - Condominium. A Common Interest Community in which portions of the real estate are designated for separate ownership, the remainder of the real estate is designated for common ownership solely by the owners of those portions, and the undivided interests in the Common Elements are vested in the Unit Owners.

Section 1.9 - Declarant. A person or a group of persons acting in concert who, as part of a common promotional plan, offer to dispose of its interest in a unit not previously disposed of, or who reserves or succeeds to a special declarant right; in this case, Discovery Construction, Inc.

Section 1.10 - Declaration. This document, including any amendments.



Section 1.11 - Development Rights. The rights reserved by the Declarant Under Article VIII of this Declaration to create Units, Common Elements and Limited Common Elements within the Common Interest Community.

Section 1.12 - Director. A member of the Executive Board.

Section 1.13 - Documents. The Declaration, Plat and Plans which have been recorded and filed, the Bylaws, and the Rules, if any, as they may be amended from time to time. Any exhibit, schedule, or certification accompanying a Document is a part of that Document.

Section 1.14 - Eligible Insurer. An insurer or guarantor of a first Security Interest in a Unit which has notified the Association in writing of its name and address and that it has insured or guaranteed a first Security Interest in a Unit. Such notice shall be deemed to include a request that the Eligible Insurer be given the notices and other rights described in Article XVI hereof.

Section 1.15 - Eligible Mortgagee. The holder of a first Security Interest in a Unit which has notified the Association, in writing, of its name and address, and that it holds a first Security Interest in a Unit. Such notice shall be deemed to include a request that the Eligible Mortgagee be given the notices and other rights described in Article XVI hereof.

Section 1.16 - Executive Board. The Board of Directors of the Association.

Section 1.17 - Improvements. Any construction, structure, fixture or facility existing or to be constructed on the land included in the Common Interest Community including, but not limited to, buildings, trees and shrubbery planted by the Association, paving, utility wires, pipes, and light poles.

Section 1.18 - Majority or Majority of Unit Owners. The Owners of more than 50% of the votes in the Association.

Section 1.19 - Manager. A person, firm or corporation employed or engaged to perform management services for the Common Interest Community and the Association.

Section 1.20 - Notice and Comment. The right of Unit Owners to receive notice of an action proposed to be taken by or on behalf of the Association, and the right to comment thereon. The procedures for Notice and Comment are set forth in Section 22.1 of this Declaration.

Section 1.21 - Notice and Hearing. The right of Unit Owners to receive notice of an action proposed to be taken by the Association, and the right to be heard thereon. The procedures for Notice and Hearing are set forth in Section 22.2 of this Declaration.



Section 1.22 - Party Wall. The wall or walls separating two homes abutting each other on the side of the Unit where there is no side yard setback required. The rights and duties pertaining to party walls are contained in Article XXVII.

Section 1.23 - Person. An individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, government subdivision or agency, or other legal or commercial entity.

Section 1.24 - Plans. The unit survey filed under Plat No. 2002-120, Records of the Anchorage Recording District, Third Judicial District, State of Alaska, as it may be amended from time to time.

Section 1.25 - Plat. The plat of Strawberry Meadows Subdivision, Plat No. 86-62, Anchorage Recording District, Third Judicial District, State of Alaska, as it may be amended, which created Tract M.

Section 1.26 - Property. The land and all Improvements, easements, rights and appurtenances which are subject to this Declaration.

Section 1.27 - Rules. Regulations for occupancy of the Units and use of the Common Elements and for the conduct of persons within the Common Interest Community, adopted by the Executive Board pursuant to this Declaration.

Section 1.28 - Security Interest. An interest in real estate or personal property, created by contract or conveyance, which secures payment or performance of an obligation. The term includes a lien created by mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an Association, and any other consensual lien or title retention contract intended as security for an obligation.

Section 1.29 - Special Declarant Rights. The rights, as defined in AS 34.08.990(30), reserved for the benefit of a Declarant to (A) complete improvements indicated on plats and plans filed with the Declaration; (B) exercise a Development Right; (C) maintain sales offices, management offices, models and signs advertising the Common Interest Community; (D) use easements through the Common Elements for the purpose of making improvements within the Common Interest Community; (E) make the Common Interest Community subject to a master association; (F) merge or consolidate a Common Interest Community with another Common Interest Community of the same form of ownership; or (G) appoint or remove any officer of the Association or any Executive Board member during any period of Declarant control. Special Declarant Rights are described in Article VIII.



Section 1.30 - Trustee. The entity which may be designated by the Executive Board as the Trustee for the receipt, administration, and disbursement of funds derived from insured losses, condemnation awards, special assessments for uninsured losses, and other like sources as defined in the Bylaws. If no Trustee has been designated, the Trustee will be the Executive Board from time to time constituted, acting by majority vote, as executed by the President and attested by the Secretary.

Section 1.31 - Unit. A physical portion of the Common Interest Community designated for separate ownership or occupancy, as shown on the development plan attached hereto as Exhibit 2, and the boundaries of which are described in Article IV of this Declaration.

Section 1.32 - Unit Owner. A Person, including the Declarant, who owns a Unit. Unit Owner does not include a Person having an interest in a Unit solely as security for an obligation.

## **ARTICLE II - Name and Type of Common Interest Community and Association**

Section 2.1 - Common Interest Community. The name of the Common Interest Community is WILDBERRY CONDOMINIUMS.

Section 2.2 - Association. The name of the Association is WILDBERRY CONDOMINIUM ASSOCIATION, a non-profit corporation organized under the laws of the State of Alaska.

## **ARTICLE III - Description of Land**

The entire Common Interest Community is situated in Anchorage, Alaska, and is located on land described as:

Tract "M", STRAWBERRY MEADOWS SUBDIVISION,  
according to Plat No. 86-62, records of the Anchorage  
Recording District, Third Judicial District, State of Alaska.

## **ARTICLE IV - Maximum Number of Units; Boundaries; Areas**

Section 4.1 - Maximum Number of Units. The Common Interest Community contains 24 Units as shown on the unit survey filed under Plat No. 2002-120.



Section 4.2 - Boundaries. Each Unit created by the Declaration is shown and numbered on Exhibit 2 and on the unit survey filed under Plat No. 2002-~~120~~. Each Unit at the time of sale may include within it an existing building. The boundaries of the Unit do not create a tract or parcel of land described as a "subdivision" in AS 40.15.290. The Unit boundaries are described as follows:

(a) Upper Boundary: The horizontal plane fifty-five (55) feet above and parallel to the lower boundary and extending to the vertical perimeter boundaries.

(b) Lower Boundary: The horizontal plane extending to the vertical perimeter boundaries at an elevation twenty (20) feet below the average elevation of the street fronting the Unit at the boundary between the Unit and the street.

(c) Vertical Perimeter Boundaries: The vertical planes extending between the upper and lower boundaries and located by reference to the measurements to the property line shown on the survey map filed under Plat No. 2002-~~120~~.

(d) Inclusions: Each Unit will include the spaces and Improvements lying within the boundaries described in Section 4.2 (a), (b), and (c) above, and any man-made improvements serving only the Unit.

(e) Exclusions: The land lying directly beneath the lower boundary of the Unit, and man-made improvements, if any, below the lower boundary of the Unit that serve more than one Unit.

(f) Inconsistency with Plans: If this definition is inconsistent with the plans, then this definition will control.

Section 4.3 - Areas. Unit areas are listed in Exhibit 3.

#### **ARTICLE V - Common Elements**

Section 5.1 - Common Elements. The Common Elements include all of the area within the Common Interest Community, other than the Units. In Wildberry Condominiums, the interior drive (Wildberry Loop), the landscaping strip along Strawberry Road and the snow storage/guest parking areas are part of the Common Elements. Fences along Unit boundaries are not Common Elements. The water and sewer distribution lines within the boundaries of the Property are also Common Elements.

#### **ARTICLE VI - Conveyance or Encumbrance of Common Elements**

Section 6.1 - Homeowner Approval. Portions of the Common Elements, except Limited Common Elements, may be conveyed or subjected to a security interest by the



Association if persons entitled to cast at least 80 percent of the votes in the Association, including 80 percent of the votes allocated to Units not owned by the Declarant, agree to this action. Each owner of a Unit to which a Limited Common Element is allocated must agree in order for the Limited Common Element allocated to that Unit to be conveyed or subjected to a Security Interest by the Association.

Section 6.2 - Proceeds of Sale or Loan. The proceeds of a sale and proceeds of a loan secured by encumbering a Common Element are an asset of the Association.

Section 6.3 - Form of Conveyance and Ratification. An agreement to convey Common Elements or to subject the Common Elements to a security interest must be evidenced by the execution of an agreement, or ratification of the agreement, in the same manner as a deed by the requisite number of Unit Owners. The Agreement must specify a date after which the agreement will be void unless recorded before that date. The agreement is effective only upon recording.

Section 6.4 - Association Contract to Convey. The Association on behalf of the Unit Owners may contract to convey an interest in Common Elements as provided in this Article but the contract is not enforceable against the Association until approved as required herein. After approval, the Association has the powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute a deed or other instrument.

## **ARTICLE VII - Maintenance, Repair and Replacement**

Section 7.1 - Common Elements. The Association shall maintain, repair and replace all of the Common Elements of the Property, including asphalt maintenance on and snow removal from the common access drive, as well as maintenance and repair of the water and sewer system within the Property.

Section 7.2 - Units. Each Unit Owner shall maintain, repair and replace, at his or her own expense, all portions of his or her Unit, which includes any structure built within the Unit, driveways within the Unit and fences along Unit boundaries. Rights and responsibilities pertaining to maintenance and repair of Party Walls, roofs and fences are contained in Article XXVII. If the Unit Owner fails to maintain and repair his or her Unit, including the yard, fences, pavement, and any structures therein, to a standard established by rules of the Association, the Association may, after Notice and Hearing, repair or maintain the Unit as needed to bring it up to Association standards and assess the Unit Owner therefore as a Common Expense.

Section 7.3 - Access. Any person authorized by the Executive Board shall have the right of access to all portions of the Property for the purpose of correcting any condition,



as described in Section 7.2, or any condition threatening a Unit or the Common Elements, and for the purpose of performing installations, alterations or repairs, and for the purpose of reading, repairing, and replacing utility meters and related pipes, valves, wires and equipment, provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the affected Unit Owner. In case of an emergency, no such request or notice is required and such right of entry shall be immediate, whether or not the Unit Owner is present at the time.

Section 7.4 - Allocation of Costs of Repairs and Maintenance. Each Unit Owner will reimburse the Association for any costs incurred for repairs and maintenance performed by the Association under the provisions of Section 7.2. In addition, each Unit Owner will reimburse the Association for any costs, including insurance deductibles, incurred by the Association due to damage to any Unit or to the Common Elements, to the extent that such damages or costs were caused intentionally, negligently or by the Unit Owner's failure to properly maintain, repair or make replacements to his or her Unit. Such expense will be assessed following Notice and Hearing. The Association will be responsible for damage to Units caused intentionally, negligently or by its failure to maintain, repair or make replacements to the Common Elements.

#### **ARTICLE VIII - Development Rights and Special Declarant Rights**

Section 8.1 - Reservation of Development Rights. The Declarant reserves the following Development Rights:

(a) Declarant reserves the right to withdraw and grant easements to public utility companies and to convey Improvements within those easements anywhere in the Common Interest Community not occupied by buildings, for the purpose of furnishing utility and other services to buildings and Improvements to be constructed on the Property. If the Declarant grants any such easements after recordation of this Declaration, Exhibit 4 will be amended to include reference to the recorded easements.

Section 8.2 - Limitations on Development Rights. The Development Rights reserved in Section 8.1 are limited as follows:

(a) The Development Rights may be exercised at any time, but not more than 7 years after the date of recording of this Declaration. If exercised more than 5 years after recording of the original Declaration, consent of 51% of the Eligible Mortgagees shall be required pursuant to Section 16.11.

Section 8.3 Special Declarant Rights. The Declarant reserves the following Special Declarant Rights, to the maximum extent permitted by law, which may be exercised anywhere within the Common Interest Community:



(a) to complete Improvements indicated on Plats and Plans filed with the Declaration;

(b) to exercise a Development Right reserved in the Declaration;

(c) to maintain sales offices, management offices, signs advertising the Common Interest Community and models;

(d) to use easements through the Common Elements for the purpose of making Improvements within the Common Interest Community; and

(e) to appoint or remove an officer of the Association or an Executive board member during a period of Declarant control subject to the provisions of Section 8.9 of this Declaration.

Section 8.4 Models, Sales Offices and Management Offices. As long as Declarant is a Unit Owner, the Declarant and its duly authorized agents, representatives and employees may maintain any Unit owned by the Declarant or any portion of the Common Elements as a model Unit, sales office or management office. Declarant may have no more than two (2) model Units and one (1) sales/ management office within the Common Interest Community at any time, although the specific location may change from time to time as Units are developed and sold. A house within a model Unit or sales/management office may be no larger than a typical house constructed within a Unit for sale to the public. Declarant may delegate this authority to dealers who purchase Units for resale.

Section 8.5 Construction: Declarant's Easement. The Declarant reserves the right to perform repair and construction work, and to store materials in secure areas, in Units and Common Elements, and the further right to control all such work and repairs, and the right of access thereto, until its completion. All work may be performed by the Declarant without the consent or approval of the Executive Board. The Declarant has such an easement through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations or exercising Special Declarant Rights, whether arising under the Act or reserved in the Declaration.

Section 8.6 - Signs and Marketing. The Declarant reserves the right to post signs and displays in the Units or Common Elements to promote sales of Units, and to conduct general sales activities, in a manner that will not unreasonably disturb the rights of Unit Owners.

Section 8.7 - Declarant's Personal Property. The Declarant reserves the right to retain all personal property and equipment used in sales, management, construction and maintenance of the premises that has not been represented as property of the Association. The Declarant reserves the right to remove, promptly after the sale of the last Unit from the





Property, any and all goods and improvements used in development, marketing and construction, whether or not they have become fixtures.

Section 8.8 - Declarant Control of Association.

(a) Subject to Subsection 8.9(b), there shall be a period of Declarant control of the Association, during which the Declarant, or persons designated by the Declarant, may appoint and remove the officers and members of the Executive Board. The period of Declarant control terminates no later than the earlier of:

- (i) sixty (60) days after conveyance of seventy-five percent (75%) of the Units that may be created to Unit Owners other than the Declarant;
- (ii) two (2) years after the Declarant has ceased to offer Units for sale in the ordinary course of business;
- (iii) two (2) years after any right to add new Units was last exercised; or,
- (iv) five (5) years after the first Unit is conveyed to a Unit Owner other than the Declarant.

The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of that period, but in that event, the Declarant may require, for the duration of the period of Declarant control, that specified actions of the Association or Executive Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

(b) Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units that may be created to Unit Owners other than the Declarant, at least one (1) member and not less than twenty-five percent (25%) of the members of the Executive Board, shall be elected by Unit Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Units that may be created to Unit Owners other than the Declarant, not less than thirty-three and one-third percent (33 1/3%) of the members of the Executive Board must be elected by Unit Owners other than the Declarant.

(c) Not later than the termination of any period of Declarant control, the Unit Owners shall elect an Executive Board of at least three (3) members, all of whom shall be Unit Owners. The Executive Board shall elect the officers. The Executive Board members and officers shall take office on election.

(d) Notwithstanding any provision of this Declaration or the Bylaws of the Association to the contrary, following notice under AS 34.08.390, the Unit Owners, by a



two-thirds (2/3) vote of all persons present and entitled to vote at a meeting of Unit Owners at which a quorum is present, may remove a member of the Executive Board with or without cause, other than a member appointed by the Declarant.

Section 8.9 - Limitations on Special Declarant Rights. Unless sooner terminated by a recorded instrument executed by the Declarant, any Special Declarant Right (except for Development Rights) may be exercised by the Declarant so long as the Declarant is obligated under any warranty or obligation, owns any Units or any Security Interest on any Units, or for ten (10) years after recording the original Declaration, whichever is sooner. Earlier termination of certain rights may occur by statute.

Section 8.10 - Interference with Special Declarant Rights. Neither the Association nor any Unit Owner may take an action or adopt any rules that will interfere with or diminish any Special Declarant Right without the prior written consent of the Declarant.

### **ARTICLE IX - Allocated Interests**

Section 9.1 - Allocation of Interests. The table showing Unit numbers and their allocated interests is attached hereto as Exhibit 1. The percentage of undivided interest in the Common Elements appertaining to each Unit for all purposes, voting and the determination of liability for Common Expenses, shall be in accordance with Exhibit 1.

Section 9.2 - Formulas for the Allocation of Interests. The formulas for the allocation of liability for Common Expenses and for the allocation of votes in the Association are as follows:

(a) Liability for Common Expenses. The percentage of liability for Common Expenses allocated to each Unit is derived by dividing the total number of Units into 100. Nothing contained in this Subsection shall prohibit certain Common Expenses from being apportioned to particular Units under Section 17.2 of this Declaration.

(b) Votes. The total number of votes in the Association shall equal the total number of Units in the Association, with one vote for each Unit in the Common Interest Community. Any specified percentage of Unit Owners, unless otherwise stated in the Documents, means the specified percentage of all votes allocated to Units in the Association.

### **ARTICLE X - Restrictions on Use, Alienation and Occupancy**

Section 10.1 - Use Restrictions. Subject to the Special Declarant Rights reserved under Article VIII of this Declaration, each Unit is restricted to a single residential structure and residential use for a single family including, therein, home professional pursuits not requiring regular visits from the public or unreasonable levels of mail, shipping, trash or



storage. No sign indicating commercial or professional uses may be displayed outside a Unit. A single family is defined as a single housekeeping unit, operating on a non-profit, non-commercial basis between its occupants, cooking and eating with a common kitchen and dining area.

Section 10.2 - Occupancy Restrictions. Subject to the Special Declarant Rights reserved under Article VIII of this Declaration, the following occupancy restrictions apply to the Units and the Common Elements.

(a) All Unit Owners shall maintain their Units in a clean and well maintained condition. No outdoor storage of trash will be permitted on any Unit. The Executive Board may regulate or prohibit the exterior storage of any type of material in order to preserve the overall appearance of the Property.

(b) There shall be no automotive repair conducted in the open anywhere on the Property.

(c) Vehicles, including campers, boats, RV's, snow machines, and the like, may not be parked on the access drives or on other Common Elements. Campers, motor homes and other recreational vehicles parked on the Units shall not be used for living space. Unit Owners or tenants of Unit Owners may not park in the guest parking spaces, and no vehicle shall remain for more than 24 hours in a guest parking space.

(d) Commercial vehicles and equipment may not be parked or stored on the Property except for the time necessary to effectuate deliveries or complete construction. A vehicle no larger than the equivalent of a Chevrolet Suburban or a Ford Expedition shall not be considered a commercial vehicle for purposes of this prohibition simply because it bears a commercial logo.

(e) No animals, livestock or poultry shall be kept in any Unit, except that domestic dogs, cats, fish and birds may be kept as household pets within the Unit, provided they are not kept, bred, or raised therein for commercial purposes or in unreasonable quantities. As used in this Declaration, "unreasonable quantities" shall be deemed to limit the total number of pets to four, no more than three of which shall be dogs or cats. The Executive Board may, after Notice and Hearing limit the sizes and types of dogs, if sizes and types of dogs become a problem for the Association. Furthermore, the Executive Board may prohibit the maintenance of any animal that constitutes a nuisance to any other Unit Owner. Dogs and cats belonging to Unit Owners, occupants of Units, or their licensees or invitees, must be kept within the Unit except that they may be taken out of the Unit on a leash held by a person capable of controlling the animal. Should any dog or cat be found outside of the Unit, other than on a leash being held by a person capable of controlling the animal, the animal may be removed by Declarant or any person authorized by the Executive Board to remove the dog or cat from the Property. The dog or cat so removed



shall be taken to the municipal animal shelter and, if its owner is known, the Association shall notify the owner of the animal's whereabouts. The owner of any pet visiting or residing on the Property shall be absolutely liable to all other Unit Owners, their families, guests and invitees, for any damage to persons or property caused by the pet. Owners of pets are responsible for the removal of their pets' waste from the Units and the Common Elements of the Project.

(f) No nuisances shall be allowed on the Condominium Property, nor shall any use be made or practice be maintained by any Unit Owner or tenant of a Unit Owner that shall interfere with the quiet enjoyment of the Property by other Unit Owners and residents. The Executive Board, after Hearing and Comment, may further refine the definition of "nuisance" in the rules of the Association.

Section 10.3 - Structure Setbacks from Unit Vertical Perimeter Boundaries. Houses constructed within the Units may be attached to each other on one side, i.e., along one Unit boundary. No structure, except a fence, shall be constructed within a setback area defined as nineteen (19) feet from the Unit boundary adjoining the access drive. With the exception of the side of a structure abutting a common wall, the structure setbacks from the side and rear Unit boundaries shall be as follows: four (4) feet along each side Unit boundary, and nine (9) feet from the rear unit boundary, defined as the boundary opposite the access drive fronting boundary, with the exception that ground level decks may be located in the rear setback area. Second story balconies on houses built within the Units may extend into the front yard setback area no more than 3 feet. Structures built on Units 1, 19 and 24, which have a side unit boundary contiguous with the common element landscaping strip along Strawberry Road, may encroach into the side setback area set forth above. If a conflict arises in determining the setback area, the provisions of Title 21 of the Municipal Land Use Code pertaining to "yards" shall be used as a guide.

Section 10.4 - Fences. No fence may be constructed within the front setback of a Unit. Fences behind the front setback must be of wood and may not exceed six (6) feet in height.

Section 10.5 - House Colors. Houses built within the Units may be painted or stained but the colors are limited to earth tones and pastels. Trim colors may be of a slightly darker contrasting color. All colors must be approved by the Executive Board as provided in Article XIII. Both sides of a duplex structure must be painted the same color.

Section 10.6 - Restrictions on Alienation. A Unit may not be conveyed pursuant to a time-sharing plan. A Unit may not be leased or rented for a term of less than thirty (30) days. All leases and rental agreements shall be in writing and subject to the requirements of the Documents and the Association. A copy of all leases and rental agreements shall be given to the Association. All leases of a Unit shall include a provision that the tenant recognizes the Association as landlord, but solely for the purpose of the Association having



power to enforce a violation of the provisions of the Documents against the tenant, provided that the Association first gives the Unit Owner notice of its intent to so enforce and a reasonable opportunity to cure the violation directly, prior to the commencement of an enforcement action.

### **ARTICLE XI - Easements and Licenses**

Section 11.1 - Easement for Ingress and Egress Through Common Elements. Each Unit Owner has an easement in common with each other Unit Owner for ingress and egress through all Common Elements, subject to such reasonable rules, regulations and restrictions as may be imposed by the Association. Each Unit is hereby burdened with and subjected to an easement for ingress and egress through all Common Elements by persons lawfully using or entitled to the same.

Section 11.2 - Easements for Support. Each Unit and Common Element shall have an easement for lateral and subjacent support from every other Unit and Common Element.

Section 11.3 - Easements for Encroachments. In the event any portion of the Common Elements encroaches upon any Unit or any Unit encroaches upon the Common Elements or another Unit as a result of the construction, reconstruction, repair, shifting, settlement, or movement of any portion of the Improvements, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists.

Section 11.4 - Recorded Easements and Licenses. All recorded easements or licenses to which the Common Interest Community is presently subject are recited in Exhibit 4 to this Declaration or are shown on the Plats or Plans.

### **ARTICLE XII - Additions, Alterations and Improvements**

#### Section 12.1 - Additions, Alterations and Improvements by Unit Owners.

(a) No Unit Owner may make any structural addition, structural alteration, or structural improvement in or to the Common Interest Community without the prior written consent thereto of the Executive Board in accordance with Subsection 12.1(c).

(b) A Unit Owner:

(i) May make any other improvements or alterations to his or her Unit not requiring approval as long as those alterations or improvements do not impair or lessen the support of any portion of the Common Interest Community;

